



October 8, 2012

EX PARTE NOTICE

Via Electronic Filing
Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: *Implementation of the Middle Class Tax Relief and Job Creation Act of 2012, Establishment of a Public Safety Answering Point Do-Not-Call Registry, CG Docket No. 12-129*

Dear Ms. Dortch:

On October 4, 2012, the undersigned met by telephone conference with Kurt Schroeder of the Consumer and Governmental Affairs Bureau; David Siehl, Jerome Stanshine and Jane Kelly of the Public Safety and Homeland Security Bureau and Raelynn Remy, Deborah Broderson and Marcus Maher of the Office of General Counsel.

In the meeting, on behalf of Intrado Inc., I suggested that the Federal Communications Commission (FCC or Commission) should specifically include as an exception to the proposed PSAP Do-Not-Call rules, 47 C.F.R. 64.1202, autodialed calls made for the purpose of notifying PSAPs of outages. Intrado explained the following:

The Commission's Part 4 rules require notification of affected PSAPs in the event of an outage of a 9-1-1 facility. For example, 47 C.F.R. § 4.9 provides:

(g) *Interconnected VoIP Service Providers.* (1) All interconnected VoIP service providers shall submit electronically a Notification to the Commission:

(i) Within 240 minutes of discovering that they have experienced on any facilities that they own, operate, lease, or otherwise utilize, an outage of at least 30 minutes duration that potentially affects a 9-1-1 special facility (as defined in (e) of § 4.5), *in which case they also shall notify, as soon as possible by telephone or other electronic means, any official who has been designated by the management of the affected 9-1-1 facility as the provider's contact person for communications outages at that facility, and the provider shall convey to that person all available information that may be useful to the management of the affected facility in mitigating the effects of the outage on efforts to communicate with that facility....*(Emphasis added)

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Technology exists that would allow providers to send notifications through systems that will automatically dial the numbers of the affected PSAPs with a recorded message containing content determined by the sender at the time of the outage. This method of notification would allow more expedient dissemination of initial outage information than manual calling, thereby allowing for the potential to manage outages more effectively.

The rules the FCC promulgated under the Telephone Consumer Protection Act contain exceptions for calls made for emergencies or with the consent of the called party.¹ However, proposed 47 C.F.R § 64.1202 does not appear to contain any exceptions, but rather appears to set forth a strict prohibition from using automatic dialing or robocall equipment to contact any telephone numbers registered on the PSAP Do-Not-Call registry.²

The FCC should make clear that the proposed prohibitions do not apply where a PSAP provides numbers that are automatically dialed to notify PSAPs of outages affecting a 9-1-1 facility pursuant to the Commission's Part 4 rules.

In its comments, the National Emergency Number Association (NENA) supported an exception to the Do-Not-Call prohibitions for "government-operated notifications systems" used in times disaster, stating that such an exception was consistent with the Communications Act's purpose of promoting safety of life and property."³ Intrado believes that the exception it proposes is consistent with this purpose as well.

¹ 47 C.F.R. § 64.1200 (a) (1).

² Under the proposed rules, the Commission refers to section 227 (a) (1) of the Communications Act for the definition of autodialing and robocalling. Under the language of 227 (a) (1), this function would not constitute autodialing. However, as the Commission points out in its Notice of Proposed Rulemaking, the Commission has interpreted the definition broadly to include "equipment that has the specified *capacity* to generate numbers and dial them without human intervention whether or not the numbers are randomly or sequentially generated or come from the calling lists." Notice of Proposed Rulemaking, CG Docket No. 12-129, at fn 12 (citing Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02-278, Report and Order, 18 FCC Rcd 14014 at 14092, para. 133 (2003)).

³ Comments of the National Emergency Number Association at 16.

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Sincerely,

/s/

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